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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,083	08/06/2001	Akira Shimazu	450100-03438	1494

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EXAMINER

VAN HANDEL, MICHAEL P

ART UNIT PAPER NUMBER

2623

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/923,083	<b>Applicant(s)</b> SHIMAZU ET AL.	
	<b>Examiner</b> Michael Van Handel	<b>Art Unit</b> 2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/16/2006 has been entered.

### ***Response to Amendment***

1. This action is responsive to an Amendment filed 8/16/2006. Claims **1-11** are pending. Claims **1, 4, 9, 11** are amended.

### ***Response to Arguments***

Applicant's arguments with respect to claims **7** and **8**, filed 8/16/2006, have been considered, but are moot in view of the new ground(s) of rejection.

Applicant's arguments regarding claims **1, 4, 9**, and **11**, filed 8/16/2006, have been fully considered, but they are not persuasive.

Regarding claims **1, 4, 9**, and **11**, the applicant argues that Arsenault et al. fails to disclose that the video information reproducing apparatus detects whether a distributed schedule information "announces that a distributed schedule information" is altered to include a new program, and, in response records forefront data for the new program to the record means. The

Art Unit: 2623

examiner respectfully disagrees. As stated in the arguments section of the previous rejection, Arsenault et al. discloses a video on demand (VOD) system, wherein VOD indicators can be set directly by a subscriber or a control center 102 (col. 8, l. 63-67). VOD indicators are initially associated with each video program in a program guide by the control center 102 before the program guide is downloaded to the receiver 200. Once downloaded, the receiver 200 scans the program guide to find the VOD service indicators, thereby identifying the programs to be recorded for VOD service (col. 16, l. 15-24). Arsenault et al. identifies these as “baseline VOD service designations.” The user may then place, remove, or alter VOD service indicators, with the user’s selections given priority over the baseline VOD service indicators (col. 16, l. 29-32). The examiner notes that in doing so, the subscriber is altering the schedule information for those programs that the control center 102 had designated for VOD recording.

Arsenault et al. further discloses that a user’s selections are given priority over the baseline indicators in the situation where there is inadequate time and/or bandwidth to pre-store all video segments that have been defined. Arsenault et al. also discloses that it is possible for a program provider VOD selection download to be interrupted by a user-selected VOD selection (col. 16, l. 29-37). Arsenault et al. still further discloses that the user can edit a list of programs scheduled for VOD service, and can remove uninteresting programs (col. 16, l. 50-64). Since altering the programs scheduled for VOD service in the schedule information alters the programs identified as programs to be recorded for VOD service, the schedule information is effectively informing the receiver 200 that there has been a change in those programs scheduled for recording prior to commencement of the recording. This meets the limitation that “the video information reproducing apparatus detects whether a distributed schedule information announces

Art Unit: 2623

that the distributed schedule information is altered to include a new program and, in response, records forefront data for the new program to the record means” as currently claimed.

Further regarding claims **1, 4, 9, and 11**, the applicant argues that the references fail to show certain features of applicant’s invention; however, it is noted that the features upon which applicant relies (i.e., that the system does not require alteration of the distributed program schedule by a user or subscriber and that neither the user nor the schedule information distributor selects the programs for NVOD) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **1-6, 9-11** are rejected under 35 U.S.C. 102(e) as being anticipated by Arsenault et al.

Referring to claims **1, 4, 9, and 11**, Arsenault et al. discloses a video information reproducing apparatus/method (col. 1, l. 63-66)(Fig. 2) in a Near Video On Demand system in

Art Unit: 2623

which the same program is distributed in a plurality of channels for a predetermined time

difference (col. 11, l. 9-12)(Fig. 6), the video information reproducing apparatus comprising:

- a record means 232 (col. 6, l. 55-60) to record in advance forefront data of the program for the predetermined time difference (col. 11, l. 25-34 & Figs. 7A, 8A),
- a digital signal reproduction means 230 (col. 6, l. 66-67 & col. 7, l. 1) reproducing the forefront data of the predetermined time difference recorded in the record means (col. 11, l. 45-47),
- a memory means (buffer memory) that can perform data writing and data reading in parallel (col. 6, l. 60-66), and
- a control means 210 (col. 7, l. 6-9) to execute control in which the forefront data is reproduced by the digital signal reproduction means when the program is selected, data following the forefront data is written in the memory means during the reproduction of the forefront data, and the following data is read from the memory means to be outputted continuously after the forefront data (col. 11, l. 45-55; col. 12, l. 8-20; & Fig. 7B),
- wherein the video information reproducing apparatus detects whether a distributed schedule information announces that the distributed schedule information is altered to include a new program and, in response, records forefront data for the new program to the record means (the examiner notes that the control center 102 associates indicators with programs in the program guide, indicating which VOD services are desired. The receiver 200 then receives the

Art Unit: 2623

- program guide from the satellite and scans it to find the video programs that have the associated service indicators. These programs are identified as programs to be recorded for VOD service. When these indicators are modified within the program guide, the schedule information provided by the control center 102 is altered.)(col. 7, l. 30-40; col. 9, l. 61-63; & col. 16, l. 8-34), and
- wherein a time information extract means extracting time information in which the program is provided, and when the program is altered, the data recorded in the record means is recorded over again onto the forefront data of the altered program, employing the time information obtained in the time information extract means as a standard (the examiner notes that the program guide includes information that indicates when the recording of a pre-stored segment should commence. Arsenault also discloses allowing the indicators that identify VOD services to be altered. If the VOD indicators were altered or removed, the pre-stored program segments with modified VOD indicators would no longer be relevant, and the irrelevant data would be recorded over.)(col. 15, l. 40-67 & col. 16, l. 1-5, 25-44).

Referring to claims **2** and **5**, Arsenault et al. discloses the video information reproducing apparatus as set forth in claims 1 and 4, respectively, wherein the time information obtained in the time information extract means is employed as time information of the control means (col. 16, l. 3-5).

Referring to claims **3**, **6**, and **10**, Arsenault et al. discloses the video information reproducing apparatus as set forth in claims 1, 4 and 9, respectively, wherein the control means

Art Unit: 2623

detects that the program is altered through schedule information distributed by one channel among the plurality of channels and extracts time information by the time information extract means based upon the detection result to alter the program (the examiner notes that the programs are altered through the program guide, which is distributed in the data stream from the satellite. See claim 1 above).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arsenault et al. in view of Browne et al.

Referring to claims 7 and 8, Arsenault et al. discloses the video information reproducing apparatus as set forth in claim 4, wherein the recording medium is comprised of a hard disk and wherein the time information obtained in the time information extract means is employed as time information of the control means (this limitation is met in the claim 2 citations above). Arsenault et al. also discloses retrieving data from a pre-stored segment and storing subsequent data in parallel using separate disk drives or memories (col. 11, l. 55-56). Arsenault et al. further discloses methods for achieving clean splicing from one of video program segment to the next (col. 15, l. 33-67 & col. 16, l. 1-5). Arsenault et al. does not disclose that the forefront data is recorded on a predetermined area of the hard disk. Browne et al. discloses a video recorder and



Art Unit: 2623

playback system, wherein a user allocates a fixed portion of storage 104 for continuous FIFO buffering, while the rest of storage stores programming that the user desires to save (p. 7, l. 19-32; p. 8, l. 1-5; & p. 20, l. 28-32). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to replace the separate disk drives of Arsenault et al. with a single hard disk with designated areas for different purposes, such as that taught by Browne et al. in order to limit the cost of a television receiver.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571-272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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